MONTANA LEGISLATIVE HISTORY

Chapter 599 19 85

Bill H 911 S _____ Original bill & history ✓ C

H. Committee on JUDICIARY			S. Committee on JUDICIARY		
Hearing Date(s)	2/22 X	C	Hearing Date(s)	3/25 X	C
& EXEC. ACTION	_____	C		3/26 X	C
	_____	C	EXEC. ACTION	3/28 X	C
	_____	C		_____	C
Date Out	_____	C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

REPLACE 6 3/4% CORPORATION LICENSE OR INCOME TAX WITH GRADUATED TAX RATE

2/20	INTRODUCED		
2/20	REFERRED TO TAXATION		
2/22	FISCAL NOTE REQUESTED		
2/27	FISCAL NOTE RECEIVED		
3/05	HEARING		
3/06	ADVERSE COMMITTEE REPORT		
3/08	BILL KILLED	64	30

HB 907 INTRODUCED BY KRUEGER, MILES
RAISE MOTOR VEHICLE LICENSE FEE TO FUND PHYSICALLY DISABLED PERSONS PROGRAM

2/20	INTRODUCED		
2/20	REFERRED TO HUMAN SERVICES & AGING		
2/22	FISCAL NOTE REQUESTED		
3/04	FISCAL NOTE RECEIVED		
3/13	HEARING		
3/25	ADVERSE COMMITTEE REPORT		
3/25	REREFERRED TO HUMAN SERVICES & AGING		
3/26	ADVERSE COMMITTEE REPORT		
3/27	BILL KILLED	75	22

HB 908 INTRODUCED BY KEENAN
RAISING THE MONTANA CORPORATE LICENSE TAX RATE ON INCOME OVER CERTAIN AMOUNT

2/20	INTRODUCED		
2/20	REFERRED TO TAXATION		
2/22	FISCAL NOTE REQUESTED		
2/27	FISCAL NOTE RECEIVED		
3/13	HEARING		
	DIED IN COMMITTEE		

HB 909 INTRODUCED BY MANUEL
ENERGY CONSERVATION GRANTS TO STATE GOVERNMENTAL UNITS
BY REQUEST OF HOUSE APPROPRIATIONS

2/20	INTRODUCED		
2/20	REFERRED TO APPROPRIATIONS		
3/12	HEARING		
4/01	COMMITTEE REPORT-BILL PASS AS AMENDED		
4/01	2ND READING PASS	95	0
4/01	3RD READING PASS	100	0
	TRANSMITTED TO SENATE		
4/03	REFERRED TO FINANCE & CLAIMS		
4/10	HEARING		
4/19	COMMITTEE REPORT-BILL CONCURRED		
4/19	STATEMENT OF INTENT ATTACHED		
4/22	2ND READING CONCURRED	49	0
4/23	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE WITH AMENDMENTS		
4/23	2ND READING AMENDMENTS CONCURRED	97	0
4/23	3RD READING AMENDMENTS CONCURRED	97	1
4/25	SIGNED BY SPEAKER		

4/25	SIGNED BY PRESIDENT		
4/25	TRANSMITTED TO GOVERNOR		
5/13	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 730 EFFECTIVE DATE: 5/13/85		

HB 910 INTRODUCED BY MENAHAN, KEYSER, BLAYLOCK
TO ALLOW SENATE TO MOVE
BY REQUEST OF HOUSE LEGISLATIVE ADMINISTRATION

2/20	INTRODUCED		
2/20	REFERRED TO LEGISLATIVE ADMIN.		
2/22	HEARING		
2/22	FISCAL NOTE REQUESTED		
2/23	COMMITTEE REPORT-BILL DO PASS		
2/25	2ND READING PASS AS AMENDED	85	11
2/27	3RD READING PASS	87	12
	TRANSMITTED TO SENATE		
3/04	FISCAL NOTE RECEIVED		
3/05	REFERRED TO LEGISLATIVE ADMIN		
3/08	HEARING		
3/20	COMM REPORT-BILL CONCURRED AS AMENDED		
3/28	REREFERRED TO LEGISLATIVE ADMIN		
3/29	ON MOTION RULES SUSPENDED PLACED ON 3RD READING 70TH DAY		
4/01	ON MOTION PLACED ON 2ND READING THIS DAY		
4/01	2ND READING CONCURRED	26	24
4/01	3RD READING NOT CONCURRED	24	26
4/01	BILL KILLED		

HB 911 INTRODUCED BY HANNAH, D. BROWN
CRIMINAL TRESPASS POSTING REQUIREMENTS
BY REQUEST OF HOUSE JUDICIARY

2/20	INTRODUCED		
2/20	REFERRED TO JUDICIARY		
2/22	HEARING		
2/23	COMMITTEE REPORT-BILL PASS AS AMENDED		
2/25	2ND READING PASS	89	10
2/27	3RD READING PASS	88	12
	TRANSMITTED TO SENATE		
3/05	REFERRED TO JUDICIARY		
3/25	HEARING		
3/28	COMM REPORT-BILL CONCURRED AS AMENDED		
4/01	2ND READING CONCURRED	39	0
4/01	ON MOTION RULES SUSPENDED PLACED ON 3RD READING THIS DAY		
4/01	3RD READING CONCURRED	50	0
	RETURNED TO HOUSE WITH AMENDMENTS		
4/08	2ND READING AMENDMENTS CONCURRED	76	21
4/08	ON MOTION RULES SUSPENDED PLACED ON 3RD READING THIS DAY		
4/08	3RD READING AMENDMENTS CONCURRED	81	17
4/15	SIGNED BY SPEAKER		
4/15	SIGNED BY PRESIDENT		
4/17	TRANSMITTED TO GOVERNOR		

4/22 SIGNED BY GOVERNOR
CHAPTER NUMBER 599 EFFECTIVE DATE: 4/22/85

HB 912 INTRODUCED BY D. BROWN, LORY, ET AL.
REVISES THE HARD-ROCK MINING IMPACT ACT AND RELATED STATUTES
BY REQUEST OF ENVIRONMENTAL QUALITY COUNCIL

2/20 INTRODUCED
2/20 REFERRED TO NATURAL RESOURCES
2/22 HEARING
2/23 COMMITTEE REPORT-BILL PASS AS AMENDED
2/26 2ND READING PASS 97 0
2/27 3RD READING PASS 97 3

TRANSMITTED TO SENATE
3/06 REFERRED TO NATURAL RESOURCES
3/20 HEARING
3/26 COMM REPORT-BILL CONCURRED AS AMENDED
3/29 2ND READING CONCURRED 49 0
4/01 3RD READING CONCURRED 48 0

RETURNED TO HOUSE WITH AMENDMENTS
4/08 2ND READING AMENDMENTS CONCURRED 94 3
4/08 ON MOTION RULES SUSPENDED
PLACED ON 3RD READING THIS DAY
4/08 3RD READING AMENDMENTS CONCURRED 96 2
4/15 SIGNED BY SPEAKER
4/15 SIGNED BY PRESIDENT

4/15 TRANSMITTED TO GOVERNOR
4/19 SIGNED BY GOVERNOR
CHAPTER NUMBER 582 EFFECTIVE DATE: 7/01/85

HB 913 INTRODUCED BY D. BROWN, KRUEGER, ET AL.
ESTABLISHING MONTANA MINERAL LEGACY PROGRAM

2/21 INTRODUCED
2/21 REFERRED TO NATURAL RESOURCES
2/21 FISCAL NOTE REQUESTED
2/22 HEARING
2/23 COMMITTEE REPORT-BILL PASS AS AMENDED
2/23 STATEMENT OF INTENT ATTACHED
2/27 2ND READING PASS 85 11
2/27 ON MOTION RULES SUSPENDED
PLACED ON 3RD READING THIS DAY
2/27 FISCAL NOTE RECEIVED
2/27 3RD READING PASS 88 11

TRANSMITTED TO SENATE
3/06 REFERRED TO NATURAL RESOURCES
3/15 HEARING
3/29 COMM REPORT-BILL CONCURRED AS AMENDED
STATEMENT OF INTENT AMENDED
4/01 2ND READING INDEFINITELY POSTPONED 33

HB 914 INTRODUCED BY HANSEN
SUSTAINABLE LOCAL ECONOMIC DEVELOPMENT ACCOUNT FOR
LONG-RANGE DEVELOPMENT

2/21 INTRODUCED
2/21 REFERRED TO LOCAL GOVERNMENT
2/21 FISCAL NOTE REQUESTED
2/23 HEARING
2/25 ADVERSE COMMITTEE REPORT
2/25 OBJECTION TO ADVERSE COMMITTEE REPORT
2/26 FISCAL NOTE RECEIVED
2/27 REREFERRED TO APPROPRIATIONS
3/25 HEARING
DIED IN COMMITTEE

HB 915 INTRODUCED BY GRADY, SCHULTZ, ET AL.
DIRECT DEPT. OF REVENUE TO AMEND RULE TO ALLOW 20% REDUCTION ON FARM HOMES

2/21 INTRODUCED
2/21 REFERRED TO TAXATION
3/07 HEARING
3/14 COMMITTEE REPORT-BILL PASS AS AMENDED
4/03 2ND READING PASS 71 25
4/04 3RD READING PASS 78 16

TRANSMITTED TO SENATE
4/13 ON MOTION RULES SUSPENDED
TO ACCEPT FOR CONSIDERATION
4/15 REFERRED TO TAXATION
4/18 HEARING
4/19 TABLED IN COMMITTEE

HB 916 INTRODUCED BY KRUEGER, HARPER, ET AL.
VOTER'S CHOICE OF PRESIDENTIAL PRIMARY BALLOTS; REFERENDUM

2/21 INTRODUCED
2/21 REFERRED TO STATE ADMINISTRATION
2/22 HEARING
2/22 COMMITTEE REPORT-BILL PASS AS AMENDED
2/26 2ND READING DO NOT PASS 50 50
2/26 BILL KILLED

HB 917 INTRODUCED BY HARBIN, MARKS, ET AL.
ALLOW CREDIT AGAINST PREMIUM TAX FOR INSURERS WITH BRANCH OFFICE IN STATE

2/21 INTRODUCED
2/21 REFERRED TO TAXATION
2/23 FISCAL NOTE REQUESTED
2/27 FISCAL NOTE RECEIVED
3/05 HEARING
3/06 ADVERSE COMMITTEE REPORT
3/08 BILL KILLED 80 14

HB 918 INTRODUCED BY RAMIREZ, HANNAH, MERCER
REGULATE ACTIONS FOR WRONGFUL TERMINATION OF EMPLOYMENT

2/21 INTRODUCED
2/21 REFERRED TO JUDICIARY
2/22 HEARING
2/23 COMMITTEE REPORT-BILL PASS AS AMENDED

HOUSE BILL NO. 911

INTRODUCED BY HANNAH, D. BROWN

BY REQUEST OF THE HOUSE JUDICIARY COMMITTEE

IN THE HOUSE

February 19, 1985	Rules suspended to allow introduction.
February 20, 1985	Introduced and referred to Committee on Judiciary.
February 23, 1985	Committee recommend bill do pass as amended. Report adopted.
	Bill printed and placed on members' desks.
February 25, 1985	Second reading, do pass.
	Considered correctly engrossed.
February 27, 1985	Third reading, passed.
	Transmitted to Senate.

IN THE SENATE

March 5, 1985	Introduced and referred to Committee on Judiciary.
March 28, 1985	Committee recommend bill be concurred in as amended. Report adopted.
April 1, 1985	Second reading, concurred in.
	On motion, rules suspended and bill placed on third reading this day.

April 1, 1985	Third reading, concurred in. Ayes, 50; Noes, 0.
	Returned to House with amendments.

IN THE HOUSE

April 2, 1985	Received from Senate.
April 8, 1985	Second reading, amendments concurred in.
	On motion, rules suspended and bill placed on third reading this day.
	Third reading, amendments concurred in.
	Sent to enrolling.
	Reported correctly enrolled.

HOUSE BILL NO. 911

INTRODUCED BY Hannah Love Brown

BY REQUEST OF THE HOUSE JUDICIARY COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING SPECIFIC REQUIREMENTS FOR POSTING OF LAND FOR THE PURPOSES OF THE CRIMINAL TRESPASS LAW; EXPANDING THE AUTHORITY OF WARDENS TO ENFORCE THE CRIMINAL MISCHIEF, CRIMINAL TRESPASS, AND LITTER LAWS ON PRIVATE LANDS BEING USED FOR RECREATIONAL PURPOSES; AMENDING SECTIONS 45-6-201 AND 87-1-504, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 45-6-201, MCA, is amended to read:

"45-6-201. Definition of "enter or remain unlawfully". (1) A person enters or remains unlawfully in or upon any vehicle, occupied structure, or premises when he is not licensed, invited, or otherwise privileged to do so. ~~A person who enters or remains upon land does so with privilege unless notice is personally communicated to him by an authorized person or unless such notice is given by posting in a conspicuous manner.~~ Privilege to enter or remain upon land is extended either by the explicit permission of the landowner or other authorized person or by the failure of the landowner or other authorized person to post notice denying entry onto private land.

(2) ~~In no event shall civil liability be imposed upon the owner or occupier of premises by reason of any privilege created by this section.~~ To be effective under this section, the notice provided for in subsection (1) must satisfy the following requirements:

(a) written notice must be affixed to a post, structure, or natural object that has been marked with a strip of fluorescent orange paint at least 3 feet high; and

(b) the notice described in subsection (2)(a) must be placed at each outer gate and normal point of access to the property and at all points where any water body crossing the property intersects an outer boundary line.

(3) At least twice a year, once at least 15 days prior to the opening of the general fishing season and once at least 15 days prior to the opening of the general big game hunting season, the landowner or authorized person must determine that written notices are in place on each post, structure, or natural object as required by subsection (2)(b).

(4) If property has been posted in accordance with subsection (2) and has been inspected in accordance with subsection (3), it is considered closed to public access from each point at which a post, structure, or natural object painted as required by subsection (2)(a) remains,

INTRODUCED BILL
HB 911

whether or not the written notice remains affixed to the post, structure, or natural object at such point.

(5) For purposes of this section, "land" means land as defined in 70-15-102."

Section 2. Section 87-1-504, MCA, is amended to read:

"87-1-504. Protection of private property -- wardens as ex officio fire wardens. (1) It shall be the duty of wardens (state conservation officers) to enforce the provisions of 45-6-101, 45-6-203, and 75-10-212(2) on private lands ~~where public recreation is permitted~~ being used for recreational purposes and to act as ex officio fire wardens as provided by 77-5-104.

(2) As used in this section, "recreational purposes" means recreational purposes as defined in 70-16-301."

NEW SECTION. Section 3. Effective date. This act is effective on passage and approval.

-End-

MINUTES FOR THE MEETING
JUDICIARY COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

February 22, 1985

The meeting of the Judiciary Committee was called to order by Chairman Tom Hannah on Friday, February 22, 1985 at 7:00 a.m. in Room 312-3 of the State Capitol.

ROLL CALL: All members were present with the exception of Rep. Brown who was previously excused.

CONSIDERATION OF HOUSE BILL NO. 686 and 665: Rep. Nancy Keenan, House District #66, chief sponsor of these bills, testified. House Bill 686 revises the procedures relating to the filing and conduct of child abuse, neglect, or dependency proceedings. Section 1 provides for an extension allowing that petitions can be filed not only by the county attorneys but by the attorney general or an attorney hired by the county welfare department. She said that oftentimes, a county attorney cannot handle his heavy caseload, and this provides a safety valve proceeding. She went over the other provisions that the bill provides. House Bill 665 is an act to revise the procedures involved in terminating the parent-child legal relationship.

Noel Larrivee, an attorney from Missoula, testified as a proponent to HB 686 and HB 665. He described some of the problems that he has observed with regards to allowing only the county attorney to be able to file these petitions. He briefly addressed the rest of the changes as provided in HB 686 which he described as mostly housekeeping measures.

John Madsen, representing the Department of Social and Rehabilitation Services, stated that the department supports all the changes requested in HB 686. He said the changes made on page 1, lines 24 and 25, are for the benefit of the protection of the child. Also, on page 5, the changes made are not only a protection for the child, but more importantly the protection of the parent to fully understand what the allegations are that have been brought against him and what the court has required them to do.

Warren Wright, representing the Missoula Child and Family Resource Council who has also worked for the Department of S.R.S. for 11 years as an investigator and treater of child abuse and neglect, testified as a proponent. One of the three areas he wised to concentrate on has to deal with the ability to hire an attorney to represent local offices. The second issue deals with a time limit which is absolutely

Rep. Keyser stated that one of the reasons why smaller counties use officers to call in jurors is because of the cost factor involved. Rep. Keyser asked what kind of additional cost will be involved. Rep. Spaeth doesn't feel it will add any additional cost be requiring courts of limited jurisdiction to serve notice of summons by mail to jurors for criminal trials.

Rep. Keyser said that he assumed that some in the clerk of the court's office may apply the same prejudices that law enforcement officers may have. Rep. Spaeth said that he realizes that could be the case, but the largest abuse area involves law enforcement officers. This proposed act would just make the system fairer.

There being no further questions, hearing closed on HB 862.

CONSIDERATION OF HOUSE JOINT RESOLUTION NO. 37: Rep. Tom Hannah, House District #86, chief sponsor of this resolution, testified. This joint resolution was introduced at the request of the House Judiciary Committee. It is a resolution requesting that the Montana Supreme Court study the question of use in a criminal prosecution of out-of-court statements of an alleged victim of the sexual abuse of children.

There being no further proponents or opponents, Rep. Hannah closed.

There being no questions asked by the committee, hearing closed on HJR 37.

CONSIDERATION OF HOUSE BILL NO. 911: Rep. Tom Hannah, House District #86 and chief sponsor of this bill, testified. House Bill No. 911 was introduced at the request of the House Judiciary Committee. This bill deals with criminal trespass, and was introduced by this committee as a result of discussions held on HB 17. Rep. Hannah said he has mixed emotions with presenting this bill because of his own personal feelings relating to this subject. The first line of the title of HB 17 says "An act eliminating the requirement that notice be posted . . ." You don't have to post notice -- that it is the responsibility of the sportsmen to obtain permission to go on the land. The first line of the title of HB 911 says, "An act providing specific requirements for posting . . ." He feels that HB 911 goes 180 degrees away from HB 17 that says that it is now the responsibility of the landowner to post his land so that the sportsman can know where he is going.

Dan Heinz, representing the Montana Wildlife Federation, stated that he supports the bill in its present form. He informed members that Mary Wright, representing Trout Unlimited, Inc., who was present at the hearing earlier, intends to support the bill.

OPPONENTS:

Conrad Fredricks, an attorney from Big Timber representing the Sweetgrass County Preservation Association, testified against this bill. He feels this bill is much worse as far as protecting the rights of the landowner than the current law, and he gave the reasons for feeling that way. He said the thing that really bothers him about the bill the way it is drafted is subsection (4). It says that a person is only guilty of trespass if he enters at the point where that red post is stuck. He told the committee if they are unable to pass HB 17, at least leave landowners with the protection they have in the current law as weak as it is.

Lorents Grosfield, a rancher from Big Timber, stated that he agrees with everything that Mr. Fredricks said. He feels this bill will do great harm to the landowner - sportsmen relations. He said that HB 911 does exactly the opposite of the intent of HB 17. He stated that he will submit amendments to this bill to make it much less objectionable. A copy of his written testimony was marked Exhibit J and attached hereto. He did not have his proposed amendments in final form, but attached to his testimony is a copy of HB 911 which reveals his suggested amendments.

There being no further proponents or opponents, Rep. Hannah closed. Rep. Hannah said the important questions that need to be carefully considered here is "who should have the responsibility?"

The floor was opened to questions.

Rep. Montayne wanted to know if there ever will be legislation that will meet everyone's approval. Mr. Conrad said that he is biased. He feels that anyone who wishes to be on his property should seek his permission first.

In response to a question asked by Rep. Keyser, Mr. Conrad said that he has not had a chance to review Mr. Grosfield's amendments; thus, he doesn't know if he supports them entirely. Also Mr. Conrad said that his first preference is to see the adoption of HB 17; second, leave the law as it is currently written; third, pass HB 911 with amendments.

In response to a question asked by Rep. Grady, Mr. Heinz said that our intent was to develop a posting requirement that would reduce the posting of absolute minimum but still have a posting requirement left in the bill.

Following further general questions concerning the intent of Mr. Grosfield's amendments, hearing closed on HB 911.

DAILY ROLL CALL

HOUSE JUDICIARY COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 2/22/85

NAME	PRESENT	ABSENT	EXCUSED
Tom Hannah (Chairman)	✓		
Dave Brown (Vice Chairman)			✓
Kelly Addy	✓		
Toni Bergene	✓		
John Cobb	✓		
Paula Darko	✓		
Ralph Eudaily	✓		
Budd Gould	✓		
Edward Grady	✓		
Joe Hammond	✓		
Kerry Keyser	✓		
Kurt Krueger	✓		
John Mercer	✓		
Joan Miles	✓		
John Montayne	✓		
Jesse O'Hara			
Bing Poff	✓		
Paul Rapp-Svrcek	✓		

MINUTES FOR THE MEETING
JUDICIARY COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

February 22, 1985

An executive session of the Judiciary Committee was called to order by Chairman Tom Hannah on Friday, February 22, 1985 at 12:00 o'clock noon in Room 312-3 of the State Capitol Building.

ROLL CALL: All members were present.

ACTION ON HOUSE BILL NO. 794: Rep. Cobb moved that HB 794 DO PASS. The motion was seconded by Rep. O'Hara.

Rep. Brown made a substitute motion that HB 794 DO NOT PASS. The motion was seconded by Rep. Rapp-Svrcek and discussed.

Rep. Cobb stated that he opposes the motion to kill the bill and would like to place a termination date in the bill.

Rep. Keyser said that since this bill has so many built-in protections, it would be a shame to not provide law enforcement with this additional tool. He admits there would probably be only 8 to 12 cases per year where this could ever be used, but he feels it is necessary for those cases.

Rep. O'Hara agrees that this would give the law enforcement people an additional tool to try to deal with some of the high-level drug problems in this state which, he feels, will increase.

Rep. Cobb moved to amend the bill on page 20, following line 2, by inserting "NEW SECTION. Section 19. Termination date. This act terminates July 1, 1987." The motion was seconded by Rep. O'Hara and carried with Reps. Keyser, Hannah, Eudaily and Montayne dissenting.

Rep. Keyser made a substitute motion that HB 794 DO PASS AS AMENDED. The motion was seconded by Rep. O'Hara.

Rep. Brown further moved a substitute motion that HB 794 DO NOT PASS AS AMENDED. The motion was seconded by Rep. Rapp-Svrcek and further discussed.

Rep. Rapp-Svrcek feels this bill will open lots of possibilities for abuse. He certainly believes that a vindictive county attorney could abuse the system. Passage of this bill also goes against the Montana Constitution, in his opinion.

The question was called, and the do not pass motion as amended failed 8-10. Without objection, the vote was reversed, and HB 794 left committee with a DO PASS AS AMENDED recommendation.

Rep. Darko further moved that HB 834 DO PASS AS AMENDED. The motion was seconded by Rep. Addy and carried with Rep. Eudaily dissenting.

ACTION ON HOUSE BILL NO. 911: Rep. Brown moved that HB 911 DO PASS. The motion was seconded by Rep. O'Hara.

Rep. Keyser moved to adopt the proposed amendments which were submitted to HB 911. (A copy of those amendments were marked Exhibit K and attached hereto.) The motion was seconded by Rep. O'Hara and discussed.

Rep. Keyser moved to replace section 4 of HB 911 with (b) of amendment #5 on the attached proposed amendments. The motion was seconded by Rep. Rapp-Svrcek.

Rep. Miles feels that the committee is just throwing things in the bill that we don't have the slightest idea of what the implications are right now which will cause more potential problems.

Rep. Brown feels that these amendments clean the bill up fairly well.

Rep. Kreuger made a substitute motion to replace section 4 with amendments #5 (c) instead of #5 (b). The motion was seconded by Rep. Brown.

Both Reps. Keyser and Rapp-Svrcek spoke against the substitute motion. Rep. Keyser feels it will allow too much leeway. The question was called on the substitute motion, and it failed on a voice vote.

The question was called on Rep. Keyser's motion to replace section 4 of H.B. 911 with (b) of amendment #5. The motion carried on a voice vote.

Rep. Keyser further moved that amendment nos. 1, 2, 3, 4, 6, and 7 of Exhibit K be adopted. The motion was seconded by Rep. Brown.

Rep. Eudaily expressed concern with amendment #3. He feels that the landowner should have some responsibility in posting notices. It doesn't provide any responsibility of the landowner to post.

Rep. Cobb said he doesn't feel that the landowner should be required to post in any way.

The question was called, and the motion carried on a voice vote.

Rep. Keyser further moved that HB 911 DO PASS AS AMENDED. The motion was seconded by Rep. Gould and carried with Reps. Miles, Mercer and Eudaily dissenting.

ACTION ON HOUSE BILL NO. 17: Rep. Hannah moved that HB 17 DO NOT PASS. The motion was seconded by Rep. Hammond. There being no discussion, the question was called, and the motion carried unanimously.

ACTION ON HOUSE BILL NO. 529: Rep. Addy moved that HB 529 DO PASS. The motion was seconded by Rep. Hammond.

Rep. Addy moved to amend on page 6, following line 22 through page 7, line 9, strike subsection (5) in its entirety and renumber subsequent subsections. The motion was seconded by Rep. Mercer. There being no discussion, the motion carried unanimously.

Rep. Addy further moved that HB 529 DO PASS AS AMENDED. The motion was seconded by Rep. Montayne. The question was called, and the motion carried unanimously.

ACTION ON HOUSE BILL NO. 918: Rep. Darko moved that HB 918 DO NOT PASS. The motion was seconded by Rep. Hammond and discussed.

Rep. Mercer made a substitute motion that HB 529 DO PASS. The motion was seconded by Rep. Keyser. Rep. Mercer further moved to amend the bill on page 1, line 11 by striking "an express"; on page 14, following "by" strike "a" and insert "statute or"; page 1, line 15, following "employment" strike "," and insert "or"; through "reasons" following "probation" strike ", or" through "reasons" on line 17; page 1, line 19, following "unless" strike "there is an express" insert "the termination violates a statute or"; following "employment" strike "that the termination violates"1 page 1, line 23, following "employment," strike "an" and insert "a good faith". Rep. Mercer said these amendments should take care of the problems Mr. Englund had with the bill. The motion was seconded, and it carried unanimously.

Rep. Mercer further moved that HB 918 DO PASS AS AMENDED. The motion was seconded by Rep. Gould.

Rep. Kreuger moved a substitute motion for a DO NOT PASS AS AMENDED. The motion was seconded by Rep. Brown and further discussed.

Rep. Krueger feels that this is a very critical area and further feels that the issues are not being adequately addressed. He just feels it is a bad bill.

It was Rep. Darko's opinion that the committee is not spending enough time considering this important bill. It also affects the people who are being employed.

Rep. Mercer moved to delete subsection (7) in its entirety.

DAILY ROLL CALL

HOUSE JUDICIARY COMMITTEE

49th LEGISLATIVE SESSION -- 1985

EXECUTIVE SESSION - 12:00 noon

Date 2/22/85

NAME	PRESENT	ABSENT	EXCUSED
Tom Hannah (Chairman)	✓		
Dave Brown (Vice Chairman)	✓		
Kelly Addy	✓		
Toni Bergene	✓		
John Cobb	✓		
Paula Darko	✓		
Ralph Eudaily	✓		
Budd Gould	✓		
Edward Grady	✓		
Joe Hammond	✓		
Kerry Keyser	✓		
Kurt Krueger	✓		
John Mercer	✓		
Joan Miles	✓		
John Montayne	✓		
Jesse O'Hara	✓		
Bing Poff	✓		
Paul Rapp-Svrcek	✓		

STANDING COMMITTEE REPORT

February 22 19 25

MR. SPEAKER:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 911

FIRST reading copy (WHITE) color

CRIMINAL TRESPASS POSTING REQUIREMENTS

Respectfully report as follows: That HOUSE Bill No. 911

be amended as follows:

1. Page 2, line 1, following "land."
Insert: "Such privilege may be revoked at any time by personal communication of notice by the landowner or other authorized person to the entering person."

2. Page 2, line 7.
Strike: "written"

Strike: "affixed to"
Insert: "placed on"

3. Page 2, line 8.
Following: "object"
Strike: "that has been marked"
Insert: "by marking it with written notice or"

DO PASS.

(continued)

Chairman.

STATE PUB. CO.
Helena, Mont.

COMMITTEE SECRETARY

4. Page 2, following line 13.
Strike: subsection (3) in its entirety
Renumber: subsequent subsection

5. Page 2, line 21.
Strike: "accordance"
Insert: "substantial compliance"

6. Page 2, line 22.
Following: "(2)"
Strike: "and" through "(3)" on line 23

7. Page 2, following line 23.
Strike: "from" through "point" on line 2 of page 3
Insert: "unless explicit permission to enter is given by the landowner or his authorized agent"

8. Page 3, following line 2.
Insert: "(4) The department of fish, wildlife, and parks shall attempt to educate and inform all persons holding hunting, fishing, or trapping licenses or permits by including on any publication concerning such licenses or permits, in condensed form, the provisions of this section concerning entry on private land."

9. Page 3, following line 4.
Insert: "(5) In no event shall civil liability be imposed upon the owner or occupier of premises by reason of any privilege created by this section."

AND AS AMENDED,
DO PASS

Chairman.

STATE PUB. CO.
Helena, Mont.

EXHIBIT J
2/22/85
HB 911

WITNESS STATEMENT

NAME Lorents Grosfield HOUSE BILL NO. 911

ADDRESS Melville Rte, Big Timber, MT 59011 DATE 2-22-85

WHOM DO YOU REPRESENT? Self

SUPPORT _____ OPPOSE X AMEND X

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

I am opposed to a posting provision to prevent Trespass or other. It should be the recreational user's responsibility to be certain that he is authorized to be where he is, and to be doing what he is doing, on private land.

HB911, from a landowner's point of view, is substantially worse than our present relatively ineffective Trespass law, for the following reasons:

1. It virtually requires posting in order to:
   a. control access; or to
   b. protect a landowner from liability,
   because a lack of posting is made equivalent to "explicit permission."
2. It eliminates a landowner's protection from civil liability in all non-recreational access cases (recreational cases are covered under Title 87, Part
3. It eliminates a landowner's ability to expell an accessee on non-posted land.
4. It has strong, cumbersome notice requirements.
5. It prohibits access on posted lands only by way of posted gates.

If the Legislature is determined to pass a new Trespass law with posting provisions, I respectfully submit that —OVER—

CS-34

something along the lines of the Utah Trespass law be passed. This law defines notice as simply a flourescent orange strip of paint on a post, etc. This goes a long way towards eliminating the problem of posting notices being taken down, whether by a potential violator or by the elements (wind).

I have attached a proposed amended version of HB911 that incorporates the Utah provisions as I recall them. If this approach is deemed worthy of consideration by this committee, I strongly recommend that the committee look at the actual Utah statute, for more precise wording.

such privilege is void immediately upon communication of verbal notice by the landowner or other authorized person, and the entering person must then immediately leave the land.

HOUSE BILL NO. 911

INTRODUCED BY Hannah Dave Brown

BY REQUEST OF THE HOUSE JUDICIARY COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING SPECIFIC REQUIREMENTS FOR POSTING OF LAND FOR THE PURPOSES OF THE CRIMINAL TRESPASS LAW; EXPANDING THE AUTHORITY OF WARDENS TO ENFORCE THE CRIMINAL MISCHIEF, CRIMINAL TRESPASS, AND LITTER LAWS ON PRIVATE LANDS BEING USED FOR RECREATIONAL PURPOSES; AMENDING SECTIONS 45-6-201 AND 87-1-504, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 45-6-201, MCA, is amended to read:

"45-6-201. Definition of "enter or remain unlawfully". (1) A person enters or remains unlawfully in or upon any vehicle, occupied structure, or premises when he is not licensed, invited, or otherwise privileged to do so. A ~~person--who--enters--or--remains--upon--land--does--so--with privilege-unless-notice-is-personally-communicated-to-him-by an--authorized--person--or--unless--such--notice-is-given-by posting-in-a--conspicuous--manner.~~ Privilege to enter or remain upon land is extended either by the explicit permission of the landowner or other authorized person or by the failure of the landowner or other authorized person to post notice denying entry onto private land. X

[LEAVE THIS LANGUAGE IN THE BILL]

~~(2) In--no-event-shall-civil-liability-be-imposed-upon the-owner-or-occupier-of-premises-by-reason-of-any-privilege created-by-this-section.~~ To be effective under this section, the notice provided for in subsection (1) must satisfy the following requirements:

(a) ~~written~~ notice must be affixed to a post, structure, or natural object ~~that has been marked~~ by marking it with written notice or with a strip of fluorescent orange paint at least 3 feet high; and

(b) the notice described in subsection (2)(a) must be placed at each outer gate and normal point of access to the property and at all points where any water body crossing the property intersects an outer boundary line.

~~(3) At least twice a year, once at least 15 days prior to the opening of the general fishing season and once at least 15 days prior to the opening of the general big game hunting season, the landowner or authorized person must determine that written notices are in place on each post, structure, or natural object as required by subsection (2)(b).~~

(3) ~~(4)~~ If property has been posted in accordance with subsection (2) ~~and has been inspected in accordance with subsection (3)~~, it is considered closed to public access, ~~from each point at which a post, structure, or natural object painted as required by subsection (2)(a) remains,~~ unless explicit permission is given by the landowner or other authorized person.

~~whether or not the written notice remains affixed to the post, structure, or natural object at such point~~.

(4) For purposes of this section, "land" means land as defined in 70-15-102."

Section 2. Section 87-1-504, MCA, is amended to read:

"87-1-504. Protection of private property -- wardens as ex officio fire wardens. (1) It shall be the duty of wardens (state conservation officers) to enforce the provisions of 45-6-101, 45-6-203, and 75-10-212(2) on private lands ~~where public recreation is permitted~~ being used for recreational purposes and to act as ex officio fire wardens as provided by 77-5-104.

(2) As used in this section, "recreational purposes" means recreational purposes as defined in 70-16-301."

NEW SECTION. Section 3. Effective date. This act is effective on passage and approval.

-End-

(4) The Department of Fish, Wildlife, and Parks shall print in condensed form the posting requirement in [subsection (2)(a) and (b)] on each set of regulations accompanying any recreational license it issues, and on each information brochure that may relate to recreational purposes using private lands.

EXHIBIT K
2/22/85
HB 911

Proposed Amendments to HB 911:

1. Page 2, line 1, following "land".
Insert: "Such privilege may be revoked at any time by personal communication of notice by the landowner or other authorized person to the entering person. [who when so notified, must immediately leave the property.]"

2. Page 2, line 7.
Strike: "written"

Strike: "affixed to"
Insert: "placed on"

3. Page 2, line 8.
Following: "object"
Strike: "that has been marked"
Insert: "by marking it with written notice or"

4. Page 2, following line 13.
Strike: subsection (3) in its entirety
Renumber: subsequent subsections

5. Page 2, line 21.
Replace section (4) with any of the following:

(a) "(4) If property has been posted in accordance with subsection (2), it is considered closed to public access unless explicit permission to enter is given by the landowner or his authorized agent.

(b) (4) If property has been posted in substantial compliance with subsection (2), it is considered closed to public access unless explicit permission to enter is given by the landowner or his authorized agent.

(c) (4) If property has been posted in accordance with subsection (2) it is considered closed to public access unless explicit permission to enter is given by the landowner or his authorized ageny except that a person who in good faith relies on a lack of notice at the point he enters upon land is not considered to have unlawfully entered or remained upon the property."

(d) Delete (4).

6. Page 3, following line 2.
Insert: "(4) The department of fish, wildlife, and parks shall attempt to educate and inform all persons holding hunting, fishing, or trapping licenses or permits by including on any publication concerning such licenses or permits in condensed form the provisions of this section concerning entry on private land."

7. Page 3, following line 4.
Insert: "(6) In no event shall civil liability be imposed upon the owner or occupier of premises by reason of any privilege created by this section."

VISITORS' REGISTER

JUDICIARY COMMITTEE

BILL NO. 665; 686; 793 (Keenan); 799; 889 (Williams); 862 (Spaeth); 911 (Hannah); 918 (Ramirez); HJR 24 (Rep. Raney); HJR 37 (Hannah)

DATE February 22, 1985

SPONSOR

NAME (please print)	RESIDENCE ~~XXXXXXXXX~~ REPRESENTING	SUPPORT	OPPOSE
Conrad K. Fredrickson	55 County P/Ds Ass		911
Tom Stang	Self		911
John Madsen	668-685-SRS	X	
Norma Harris	" " SRS	X	
D. WARREN WRIGHT	MS/A. Child & Family Resource Council	665 685	
Lenore Jahnfenn	Friendship Center	✓	793
Nancy C. Chisholm	Friendship Center Self	✓	793
Lorents Grosfield	Self		911
Al W. Larson	MLBA + MTN	HJR-24	
Jim Jensen	Magistrates Assn.	799, 889 862 w/amendments	
MIKE MALES	SELF LIV, MT.	✓ HJR 24	
Gail Kline (WLF)	Women's Lobbyist Fund	793	
Bob Durkee	Mont TAVERN - Helena	HJR 24	
Royce Fowler	D. SRS	HB 793	
Janet Schmidt	Mercy Home & Hilton	HB 793	
Caryl Mickelson Borchers	Mont Coalition Against Domestic Violence	HB 793	
Madeline	Gt Falls Women's Aid	HB 793	
Nancy Bills	Rape Crisis & Mary Magdalene	HB 793	
Amy Pfeifer	Women's Law Caucus	HB 793	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

(next page →)

VISITORS' REGISTER

HOUSE JUDICIARY COMMITTEE

BILL NO. _____ DATE February 22, 1985

SPONSOR _____

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Kelly Chandler	Women's Lobbyist Fund	HB 793	
Mart. Adrian	Msla.	HB793	
Ann Hedreen	Missoula	793	
Bobbi Franz	Msla	793	
Beverly Barnett	Women's Law Caucus Msla	793	
Margaret (illegible)	Deputy County Attorney Lewis & Clark	HB793	
Jerry Allen	Helena	918 ✓	
Chip Erdmann	MSBA Helena	918 ✓	
Mary Wright	Trout Unlimited	911	
Thomas E. Davis	HWVCMT 889-2 7949	~~OPPOSE~~	
Robert W. Marks Jr	Workers Compensation	918 ✓	
Roger McGlenn	Independent Insurance Agents Assn of MT	918 ✓	
Sally Irvine	Am Ins. Assn	918 ✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

March 25, 1985

The fifty-eighth meeting of the Senate Judiciary Committee was called to order at 10:08 a.m. on March 25, 1985, by Chairman Joe Mazurek in Room 325 of the Capitol Building.

ROLL CALL: All committee members were present with the exception of Senator Bruce Crippen who was excused.

CONSIDERATION OF HB 575: Representative Mike Kadas, sponsor of HB 575, testified this bill comes out of a concern over child kidnapping and that type of crime. This bill involves the case of unlawful restraint of a victim less then 16 years old and the offender who is at least three years older. It will double the penalty.

PROPONENTS: Jo Anne Peterson, Montana Education Association, presented written testmony in support of the bill (Exhibit 1).

OPPONENTS: None.

QUESTIONS FROM THE COMMITTEE: Senator Shaw asked if section 2 conflicted with section 3. Representative Kadas replied this provides an exception for those people less than 16 years old and the offender is at least three years older. That section applies only to section 3. Everything else applies to section 2.

CLOSING STATEMENT: Representative Kadas stated this is a problem that is coming to greater concern in the state.

Hearing on HB 575 was closed.

CONSIDERATION OF HB 793: Representative Nancy Keenan, sponsor of HB 793, testified this is a warrantless arrest bill. It goes into defining domestic violence and requires a report. Generally there are no records kept of such things; they are merely recorded as a disturbance. About 60% of all married women are subject to physical violence sometime during their marriage; 20% are beaten regularly; in 50% of the cases police respond to, they have been there five or more times before, and there is no record.

PROPONENTS: Representative Keenan stated the Women's Law Caucus in Missoula would like to go on record as being in support of the bill.

to the people in possession would be the easiest thing to do. Mr. Peck asked how you would find out about an unrecorded lease if you had a 40-acre piece of land with no houses on it. It is not unreasonable to have the owner notify the person in possession of the land. Senator Pinsoneault suggested asking a neighbor. Mr. Beck asked what would happen if he didn't know or didn't give the right answer. At this stage of the game they are merely attempting to define a line or develop a line. At a later date, more intensive efforts are made. Senator Mazurek suggested requiring eveyone who has a record lease or record interest. Mr. Brown responded they found very few instances where the owner did not know who was leasing the property. Senator Mazurek commented Mr. Beck's objection is reasonable. If he goes to the courthouse and sends notice, why should he go further than that? Maybe he should tell the owner if there is someone who has a possessory interest, they should notify the Highway Department. Mr. Brown responded he could understand the concern, but the policy question is who bears the burden--the person taking the property or the person who is having his property taken? Senator Mazurek asked how they would find that out. Mr. Brown replied they should ask the owner. Mr. Beck responded they have the problem of time. They would have to go to the landowner and get him to respond, and many times they are out of state. It puts a lot of time in front of them before they can survey. Senator Towe suggested using the telephone. He also suggested putting in some language about "unless some person cannot be found after reasonable inquiry." Mr. Beck responded he had no objection to persons with a record interest.

CLOSING STATEMENT: Representative Addy stated he thinks the question is one of administrative convenience versus the rights of a person who is an owner of private property. Perhaps an additional paragraph in the letter notice to the owner tell them they are required to let the persons in possession know as well. That is something for the committee and the Department of Highways to consider. The king can do no wrong has come to mean the king can do anything he wants instead of he has to pay for a taking.

Hearing on HB 891 was closed.

CONSIDERATION OF HB 911: Representative Tom Hannah testified this bill has been introduced at the request of the House Judiciary Committee. It came out of HBs 16 and 17. HB 17 dealt with trespass. It was unacceptable to the committee and the House floor. They needed to come up with a new bill because of the problems of amending. Several of the groups involved with stream access worked out the language presently before the Senate Judiciary Committee. The major difference in this bill and HB 17 is the burden to post is on the landowner. This is a posting bill. Posting may be removed at any time.

PROPONENTS: Ron Waterman presented written testimony in support of the bill (Exhibit 12). HB 911 basically takes the law in Montana requiring posting and takes away the requirement of conspicuous posting of fences every 200-400 feet and reduces it to normal access points or where streams cross boundaries. It also addresses the problem of landowners' having signs up and then having them vanish. It encourages the Department of Fish, Wildlife and Parks to enforce the trespass laws. A strip of paint is readily observable. This bill broadens the ability of the Fish and Game wardens to enforce trespass laws. Representative Ed Grady testified he was in full support of this bill. This bill requires a minimum amount of posting, and landowners do a lot of posting. He thinks it is the landowners' responsibility to do a minimum amount of posting. Jim Flynn, of the Department of Fish, Wildlife and Parks, testified they support HB 911. The language in section 2 on the bottom of page 3 does expand the authority for the wardens. They are aware of that additional responsibility and are willing to accept it. They could handle that for the bienniem with the present staffing requirements. Sam Hofman, of Gallatin County, representing the Agricultural Preservation Association, testified they are concerned if by not posting, that gives free license to everyone coming into the place. They would like that protected. They still want that right. They think you should still have to come ask permission. Dan Heinz, representing the Montana Wildlife Federation, testified in this country, fence lines bear no relationship to landownership. Maps, even though they are the best available, still are not current. For activities such as fishing and shotgun hunting, they don't want to be subject to criminal activities. Jo Bruner, representing the Montana Cattlemen's Association, presented written testimony to the committee (Exhibit 13). Conrad Fredricks, representing the Sweetgrass County Preservation Association, testified this does not give the landowners the break with regard to trespass that HB 17 did, but it is less onerous than the current law. Regarding the question about permission to go on property, he reminded the committee about requiring permission for recreational purposes which this committee passed. That bill and this bill are complementary to each other and to the public. Norm Starr, of Melville, testified as a proponent to the bill and stated it is better than what we now have. He can't see why they should have to post, but if the bill goes through, they will have to post. We used to talk about managing game and fish, and now we talk about managing people. Because we don't know what will happen with HB 265, we need a trespass bill. Lorents Grosfield, a cattle rancher from Big Timber, presented written testimony in support of the bill (Exhibit 14). His testimony contained a few minor amendments. One addresses the size of the orange strip; one the posting of waters; and one the Fish and Game's responsibility in educating the public. Lorna Frank, representing the Montana Farm Bureau Federation, presented written testimony in support of the bill (Exhibit 15). Lavina Lubinus,

representing Women Involved in Farm Economics, presented a witness sheet in support of the bill (Exhibit 16), although she did not testify before the committee.

OPPONENTS: None.

QUESTIONS FROM THE COMMITTEE: Senator Towe asked if the three feet high referred to the length or if it referred to the height above ground. Mr. Waterman responded it was intended to be the length of the strip of paint, not the height. Senator Towe asked if there were any dimensions for width, how high off the ground, or if it were too high. Mr. Waterman replied they did not, but Mr. Grosfield suggested a surface area of 200 inches. From the perspective of the landowner, the idea will be to post something that is conspicuous, so he can alert the public to the fact the land is closed. They chose orange because it is more seeable than red. Senator Towe asked about Mr. Grosfield's amendment regarding metal posts. Mr. Waterman stated he thinks it is appropriate, because they do not have 200 inches around. The practical matter is metal fence posts alone are not used at gates. Senator Mazurek stated he thinks the amendments suggested by Mr. Grosfield are good ones and requested comments. Mr. Waterman stated there seems to be a concensus there is no problem with the amendments as proposed. Senator Mazurek questioned whether the language on page 3, subsection 6, regarding civil liability were a blanket applying to the owner and not the user. Mr. Fredricks responded that language is essentially in the current trespass law. The criminal law commission and the legislature did give privileges to enter if it is not posted, which this bill still does. The criminal law commission and the legislature said this license might from a civil liability standpoint be argued that the person is a licensee or invitee. The legislature did not want the civil aspects to be tampered with. Senator Towe asked Mr. Flynn if Mr. Grosfield's amendment regarding using the media was a problem. Mr. Flynn responded they currently have a program where they attempt to inform the persons who will be the long-term hunters and fishermen about the various laws, trespass being one of them. That effort would be expanded to include this, and they would continue to make that known. They had no problems with it.

CLOSING STATEMENT: Representative Hannah stated the direction of the bill is it requires the landowner to post.

Hearing on HB 911 was closed.

ACTION ON HB 575: Senator Daniels moved HB 575 be recommended BE CONCURRED IN. In justice court, all you do is give him a high misdemeanor. If you want to charge him with a felony, you have to go to district court. Mr. Petesch stated no one opposed this bill, but what this does

ROLL CALL

SENATE JUDICIARY COMMITTEE

49th LEGISLATIVE SESSION -- 1985 Date 032585

NAME	PRESENT	ABSENT	EXCUSED
Senator Chet Blaylock	X		
Senator Bob Brown	X		
Senator Bruce D. Crippen			X
Senator Jack Galt	X		
Senator R. J. "Dick" Pinsoneault	X		
Senator James Shaw	X		
Senator Thomas E. Towe	X		
Senator William P. Yellowtail, Jr.	X		
Vice Chairman Senator M. K. "Kermit" Daniels	X		
Chairman Senator Joe Mazurek	X		

DATE _____

COMMITTEE ON _____

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
Marg. Wickes Borches	Mt Coalition Against Domestic Violence	HB 793	✓	
Noreen Deur	Great Falls Mercy Home	HB 793	✓	
Jackie Ferguson	Victims of Domestic Violence	HB 793	✓	
Judy Fuller	Mont. Water Develop. Assn, Mont. Irrigators, Inc.	HB 520	✓	
Mark Aldrich	Counselor, MSLA.	HB 793	✓	
Deborah Peterson	MEA	HB 575	✓	
Jbeck	DOH	HB 891	✓	
Sam Hofman	APA	HB 911 HB 520	✓	
Ray Watterman	MSGA	HB 911 HB 520	✓ ✓	
Lorna Frank	Mont. Farm Bureau	HB 891 HB 911	✓ ✓	
Conrad B Fredricks	Sweet Grass Co. Prv. Assn	HB 911 HB 520	✓ ✓	
Senor F. Jalufero	Friendship Center Helena	HB 793	✓	
Bud Gile	Self	HB 911 HB 520	✓	
Carol Mosher	Mont. Cow Belles	HB 911 HB 520	✓	
LORENTS GROSFIELD	Self	" "	✓	
RUSS BROWN	NPRC Helena	891	✓	
Gail Kline (WLF)	Women's lobbying Fund	HB 793	✓	
R. A. F. Ellis	Self & Hellgate Valley Irrig Dists	HB 520	✓	
Dan Heinz	Mont. Wildlife Fed	HB 911	✓	
JIM FLYNN	DEPT FWP	HB 911 HB 520	✓ ✓	
Tom Ebzery	Torque River Railroad	HB 891	✓	
Tom Stiers	Melville Mont	HB 911 HB 520	✓	
Ward Doggett	Mt. Stockgrowers Mt. Woolgrowers	HB 911 HB 520	✓	
Lavina Lubinus	WIFE	HB 891		
Tom Schassen	Montana Wildlife Fed.	HB 911	✓	
Mike Micone	WETA	HB 891 HB 520	X	

(Please leave prepared statement with Secretary)

DATE _____

COMMITTEE ON _____

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Jim Murphy	MT Farmers Union	HB891	✓	
Mike Kadas	HD 55	HB 576	✓	
Phil Stroope	Sweet Grass Co. Res Ass	HB 520	✓	
K. Bowman	Ag Leg Work	520 911 541	✓	
Reg Brady	Self	911	✓	

(Please leave prepared statement with Secretary)

TESTIMONY TO SENATE JUDICIARY

SUPPORTING HOUSE BILL 911

The Montana Stockgrowers Association supports passage of House Bill 911. House Bill 911 is the result of the interim study which considered impacts of the stream access problem upon private landowners. The testimony given during the hearings of the interim committee revealed that the trespass laws of the State of Montana were not working to protect private property rights. The problem lay in two areas. One was the requirement that land must be "conspicuously posted" before a member of the public could be charged with trespass. The other was that the fish and game wardens had little power to enforce trespass laws.

House Bill 911 corrects both problems. The bill is essentially a minimum posting law and allows a landowner to post land by either affixing a written notice or a strip of fluorescent orange paint at least three feet high at all outer gate and normal access points to the property and through those acts given notice to the public that the property is closed. The paint strip creates a permanent notice and is a good substitution for the requirement of conspicuous posting. It replaces the requirement under present law that signs be posted every 200 to 400 feet

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 12
DATE 032585
BILL NO. HB911

apart and avoids the potential problem of having a sign removed by a trespasser.

House Bill 911 also broadens the powers of the fish and game wardens to enforce the trespass laws. This is needed in light of the stream access decisions since the potential for conflict between private property rights and public recreational rights will increase.

The Montana Stockgrowers Association urges passage of House Bill 911.

7325R

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 12
DATE 032585
BILL NO. HB 911

MONTANA CATTLEMEN'S ASSOCIATION INTL

WITH A LARGE "Steak" IN MONTANA'S FUTURE

P.O. Box 1234
Helena, Montana 59624

TESTIMONY CONCERNING HOUSE BILL 911

Mr. Chairman, members of the committee, H.B. 911 contains some real improvements to the trespass law, from both the landowner's and sportsmen's viewpoints. By defining exactly what constitutes effective notice, this bill clarifies the trespass issue to a great extent. Giving the landowner flourescent orange paint as an alternative to printed "no trespassing" signs solves one of the mechanical problems involved in posting notice.

The Montana Cattlemen's Association has promoted S.B. 435 as a better alternative to H.B. 911. If we must choose between the two, we would rather have S.B. 435. We have attached a copy of our testimony on H.B. 435, in which we explain our preference for it. But, we would not want to see H.B. 911 killed under any circumstances. It represents a necessary improvement to the law. S.B. 435 deals only with recreational use of land; but, there are other uses, to which HB 911 would still apply. We find these two bills to be compatible and see no reason not to pass both of them.

Thank you.

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 13
DATE 032585
BILL NO. HB911

MONTANA CATTLEMEN'S ASSOCIATION INTL

WITH A LARGE "Steak" IN MONTANA'S FUTURE

P.O. Box 1234
Helena, Montana 59624

TESTIMONY PRESENTED TO HOUSE JUDICIARY

COMMITTEE CONCERNING SENATE BILL 435

Mr. Chairman, members of the committee, S.B. 435 represents a sensible, straightforward solution to the presently confused situation which both landowner and sportsman find themselves in concerning permission for recreational use of private land. While the Dept. of Fish, Wildlife, and Parks does enforce a rule prohibiting big game hunting without permission, other activities require no permission unless land is heavily posted. Misunderstandings are bound to occur under the present trespass law, especially in view of recent Supreme Court decisions allowing public access to all surface water. By simply stating that permission is required in order to recreate upon another's land, S.B. 435 clears the air and lays the issue to rest.

The Montana Cattlemen's Association is aware of H.B. 911, which is another effort to resolve the problem of defining criminal trespass. We do not oppose H.B. 911. It does improve the existing law in that it states exactly where and how land must be posted. The requirements specified are not unreasonable. Yet, any posting requirements invite trouble. The recreationist is led to believe that he will be welcome or at least tolerated wherever a landowner has neglected to place proper notice around a parcel of land. Frequently, this assumption turns out to be incorrect and an unpleasant confrontation results. While, under such a law, the sportsman need not fear prosecution, the experience of telling and being told to "get off" spoils yet another landowner-sportsman relationship. We must, therefore, support S.B. 435 as the best way to approach the question of when permission is required for recreational use of private land. We find that responsible sportsmen and recreationists have no desire to use another's property without permission, regardless of the presence or absence of signs or flourescent painted posts.

The Montana Cattlemen's Association asks for a "do pass" on this welcome addition to the trespass law. Thank you.

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 13
DATE 032185
BILL NO. HB 911

TESTIMONY before the Senate Judiciary Committee, March 25, 1985, Helena, Montana, by Lorents Grosfield, cattle rancher from Big Timber, Montana.

Mr. Chairman, Members of the Committee:

I appear here today in somewhat less than wholehearted support of HB 911, but support none the less. While I believe that a user of private lands should know where he is and be responsible to be authorized to be where he is, I realize that there is a lot of resistance by some recreationists to the concept of getting permission before entering private property. If we must therefore have a posting law, I do feel that HB 911 provides landowners much better protection than present Montana law.

There are two primary reasons for this. First, under present law a landowner must "post in a conspicuous manner"; the problem here is that no one knows precisely what "conspicuous" means. HB 911 is much more specific in its posting requirement. Secondly, the provisions in HB 911 that include a strip of fluorescent orange paint(1) as being equivalent to a sign stating "No trespassing without permission" is much better than the present situation. Under present law, the signs are too frequently destroyed either by the wind and rain or by trespassing vandals. Also, from the point of view of improving landowner-recreationist relations I think it is appropriate that the language in HB 911 says that the fluorescent paint is equivalent to "No trespassing without permission" instead of the simpler "No trespassing", period, which is more likely to be intimidating to some recreationists.

HB 911 is an excellent companion bill to SB 435, which requires permission for any recreational use of private land. If both these bills were to pass this Legislature, landowners would be well protected against all forms of trespass, including recreational trespass. Because of the tremendous losses that have occurred in these landowner protections through things such as the stream access court decisions, it is essential that this Legislature give careful consideration to the improvement of landowner feelings to-

(1)There was some concern expressed in the House over the size of the strip. If that concerns this committee, I would suggest the language in the Utah trespass law, as follows: "a minimum of 100 square inches of fluorescent or bright yellow paint (on exterior fenceposts, trees; or when metal fenceposts are used, the entire exterior side must be painted)". Thus, on page 2, line 13: "3 feet high, and not less than 100 square inches, except that when metal fenceposts are used, the entire exterior side must be painted; and"

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 14
DATE 032585
BILL NO. HB 911

wards recreational users through passage of much-improved trespass legislation. The "big game hunting by permission only" bill of a few sessions ago did a lot to improve relations and mutual respect between landowners and recreational users. HB 911, together with SB 435, will do much more.

You know, last hunting season, we hosted 863 hunters on our ranch, which is about the average annual number of hunters we have hosted on our ranch over each of the last ten years. In addition we have hosted well over one hundred days annually for other recreational uses such as fishing, hiking, picnicing, and camping, not to mention several hundred days of horseback riding. In other words, over the past ten years, we have hosted well over 10,000 total recreation days on our ranch, NONE of which were charged for. On the contrary, if anything, I have donated a tremendous amount of time and energy (not to mention money) toward the recreating public--- consider that if each recreation day demands only 5 minutes of my time, I have donated over 50,000 minutes or 833 hours or 104 working days or nearly one-half of an average working year to the recreating public (actually, it's rare to get off with only 5 minutes by the time I've explained where to go, where not to go, where the deer are, where the fish are, where the other hunters and fishermen are, where the "big ones" are, where the cattle are, and so on). In fact when you think about it, what I've done, and what most ranchers do, is to subsidize the recreating public to the extent of the time and expense it takes to accomodate that public.

One of the questions I have to ask myself is "Do I really want to continue to donate the tremendous amounts of time that it takes to accomodate to a hunting season?" This seems especially pertinent in light of the kind of thanks that I get as an agricultural landowner from my state's government in the form of things such as the stream access court decisions, and legislation such as HB 265 that so far seeks to go farther than the decisions themselves.

The point is that some recreational users would have you believe that unless they are granted full easements to use private lands, they have nothing. This is simply not true. It is essential to remember that, statewide, recreational access is widely available on private land when asked for--- the important ingredient is the asking or otherwise negotiating for access permission. To the landowner this is an essential private property right that is vital to efficient management. To the recreational user it is a matter of common courtesy as well as, in many cases, of law. Although there are exceptions, most people respect private property and appreciate and enjoy the privilege

SENATE JUDICIARY COMMITTEE
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DATE 032585

to use it, and they are careful. And every year I get letters of thanks from all over Montana and many other states as well--- this year one hunter wrote, "I just wanted you to know how much I appreciated being able to hunt this year on your property. Your hospitality makes me glad I live in Montana." That represents a substantially different attitude from the one that my state's government has been taking.

I urge you today to favorably consider HB 911 and to do what you can to support SB 435 as well. I am including some minor amendments to HB 911 to take care of a few small problems that I see with the language. Thankyou for your time.

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 14
DATE 032185
BILL NO. HB 911

SUGGESTED AMENDMENTS TO HB 911

1. At page 2, line 14:

(b) the notice described in subsection (2)(a) must be placed at each outer gate and normal point of access to the property ~~and at all points where any~~ including on both sides of a water body crossing the property wherever such body intersects an outer boundary line.

REASONS:

1. What does "at all points" on line 16 mean?
2. Is it necessary to post ALL water bodies--- what about one that is rarely if ever used by the public? What about one that is too small to be "capable of recreational use"?

2. At page 3, line 9:

(4) THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS SHALL ATTEMPT TO EDUCATE AND INFORM ALL PERSONS HOLDING HUNTING, FISHING, OR TRAPPING LICENSES OR PERMITS BY INCLUDING ON ANY PUBLICATION CONCERNING SUCH LICENSES OR PERMITS, IN CONDENSED FORM, THE PROVISIONS OF THIS SECTION CONCERNING ENTRY ON PRIVATE LAND. The department shall use public media, as well as its own publications, in attempting to educate and inform other recreational users of these provisions.

REASONS: Obviously non-licensed recreational users (such as floaters, hikers, etc.) need to be informed as well. The state of Utah, in Section 23-20-16 of its code, states: "The division shall attempt to educate and inform all persons holding licenses, certificates or permits to hunt, trap, or fish on private property of owner's rights and sportsmen's duties. The division shall use public media, including newspapers, radio, and television, as well as other sources, to educate and inform sportsmen and promote respect for private property rights. The restriction pertaining to trespassing shall be made a part of all hunting and fishing proclamations issued by the wildlife board."

3. Regarding Section 2, page 3, I assume that the language is not meant to imply that it shall exclusively be the duty of wardens to enforce these trespass provisions, that is, to the exclusion of local police or sheriffs. Wardens are hardly equipped to handle very many complaints, especially during hunting season, at one or less than one warden per county.

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 14
DATE 032585
BILL NO. HB 911

MONTANA FARM BUREAU FEDERATION

502 South 19th Bozeman, Montana 59715
Phone (406) 587-3153

TESTIMONY BY: Lorna Frank

BILL # HB 911 DATE 3/25/85

SUPPORT XX OPPOSE

Mr. Chairman, members of the committee for the record my name is Lorna Frank, representing Montana Farm Bureau.

Farm Bureau delegates at the 65th. Annual meeting last December were very concerned about getting stronger trespass legislation passed which would insure that private property will be free from public use except with permission from the landowner.

Farm Bureau supports HB 911 because we feel it protects private property and urges this committee to give HB 911 a do pass recommendation.

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 15
DATE 032585
BILL NO. HB 911

Lorna Frank
SIGNED

Mr Chairman and members of the committee

WITNESS STATEMENT

For the record my name is

NAME Lavina Lubinus BILL NO. HB 911

ADDRESS 1501 Chestnut DATE 3/25/85

WHOM DO YOU REPRESENT? Women Involved in Farm Economics

SUPPORT XXX OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

We would like to go on record in support of this bill.

By posting the point of entry instead of every few feet the ~~person~~ should be enough responsibility for the land owner. Respecting the ownership of the property should be the ~~Respect~~ responsibility of the person who wants to enter or use said property.

The orange is a good idea. Once we place the signs are constantly being ripped down or shot to pieces.

We urge your support of this legislation

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 16
DATE 032585
BILL NO. HB 911

CS-34

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

March 26, 1985

The fifty-ninth meeting of the Senate Judiciary Committee was called to order at 10:08 a.m. on March 26, 1985, by Chairman Joe Mazurek in Room 325 of the Capitol Building.

ROLL CALL: All committee members were present, with the exception of Senator Kermit Daniels who was excused.

CONSIDERATION OF HB 760: Representative Dennis Nathe, sponsor of HB 760, testified this bill changes the bifarcation process present in our current state divorce laws. By that he meant any spouse can file for a divorce, and if the other spouse does not contest that filing, the divorce can become final within 21 days. It comes final, but problems such as division of property and child custody are all left hanging. What HB 760 does is on page 2, lines 13-14. This is the only judicial decree that comes off the bench that does not handle the problem in its entirety. If one party happens to get remarried, then you have three or four people involved in this battle. It places a great burden on the court system. The Child Support Bureau of the Department of Revenue had 600+ cases during the last quarter to get warrants of distraint and notices of levy for. Of that 40% involve paternity suits, and 35% involve this problem where the custody and child support was not settled. What this bill attempts to do is clean up a legal process that is on the books and say before a final decree of dissolution is granted, all of these issues will be settled in a final decree. In divorce, those two parties will have to sit down and take a look at what they are doing and what the impact will be on the children and on themselves.

PROPONENTS: Mike Abley, Administrator of the Montana Supreme Court, testified the court had directed him to urge the committee's support for this bill. The supreme court gets involved in cases that would not come before it if this bill were granted. Things don't remain static when you get divorced. The longer you put off the final paperwork in these cases, the more complex it gets. Ultimately these cases go before the supreme court. The children suffer. The property is tied up for years.

OPPONENTS: None.

QUESTIONS FROM THE COMMITTEE: None.

improve Senator Brown's bill. Senator Brown moved as a substitute motion that Mr. Petesch's proposed amendments be adopted (see standing committee report for text of amendments). The motion carried unanimously. Senator Brown moved HB 717 be recommended BE CONCURRED IN AS AMENDED. The motion carried with Senator Shaw voting in opposition.

FURTHER CONSIDERATION OF HB 911: The committee then discussed the proposed amendments to the bill proposed by Lorents Grosfield at the previous committee meeting. Senator Mazurek felt the first two were probably necessary, but he questioned the third. Senator Shaw stated when you come on his ranch, he has it posted, but before you get to the house, you cross four more cattleguards. He asked if he would have to post each of them. Also, he questioned whether he would have to post all of the cattleguards after his house. Senator Towe stated this bill only applied to those points where your land joins public land. You post it where it comes into this land. He asked that Mr. Petesch work these amendments into the bill. Senator Mazurek stated we had also talked about the department's having to advertise in more than their own publications. He then asked Mr. Petesch to work Mr. Grosfield's suggestions up into amendment form for the next committee meeting. Senator Towe asked about the third proposal. Senator Mazurek again stated he didn't think it was necessary. Senator Towe reiterated we didn't want that one. Senator Towe stated the fence post concerns him, because many if not all are already orange. Senator Galt asked where he ever saw an orange fence post. Mr. Petesch pointed out metal fence posts are not used at gates.

FURTHER CONSIDERATION OF HB 265: Chairman Mazurek stated the subcommittee had finished its work on the bill and would deliver its report to the committee tomorrow. He scheduled an executive session for 7:00 p.m. the next day. That would give the committee the next day to work on the bill if it ran into problems. Senator Blaylock recommended the discussion be confined to the committee. If the spectators get up and continue to testify as they have been in the subcomittee, he did not feel the committee would be able to finish its work. Senator Towe felt they should allow some time to those in attendance. He felt the way the subcommittee had handled its hearings, it may not take as long. He pointed out the subcommittee was able to reach some conclusions, and there were some areas on which it had come to an impasse. In those areas, there is a lot of outside input. He felt we should consider it if someone comes up with a brand new suggestion. Senator Mazurek suggested the word be put out they had better have any suggestions in writing to the committee so it can be part of Senator Yellowtail's report. Senator Shaw stated he would fight any attempt to open the meeting up at the executive session. He felt enough of that had been done. Senator Pinsoneault stated what has been done has been good and

ROLL CALL

SENATE JUDICIARY COMMITTEE

49th LEGISLATIVE SESSION -- 1985 Date 032685

NAME	PRESENT	ABSENT	EXCUSED
Senator Chet Blaylock	X		
Senator Bob Brown	X		
Senator Bruce D. Crippen	X		
Senator Jack Galt	X		
Senator R. J. "Dick" Pinsoneault	X		
Senator James Shaw	X		
Senator Thomas E. Towe	X		
Senator William P. Yellowtail, Jr.	X		
Vice Chairman Senator M. K. "Kermit" Daniels			X
Chairman Senator Joe Mazurek	X		

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

March 28, 1985

The sixty-second meeting of the Senate Judiciary Committee was called to order at 10:00 a.m. on March 28, 1985, by Chairman Joe Mazurek, in Room 325 of the Capitol Building.

ROLL CALL: All committee members were present.

ACTION ON HB 837: Senator Daniels moved HB 837 be amended as follows:

Page 1, line 22.
Following: "duty"
Strike: "or power of his office"
Insert: "in a reasonable and proper manner"

Senator Blaylock pointed out this bill arose out of a police dog's being killed in one community. He asked if the man who hurt the dog were caught and punished. Senator Mazurek replied yes. He also pointed out the only statute available to prosecute the man under was for a misdemeanor. The motion to amend carried unanimously. Senator Brown moved the word "seriously" be added before the word "disables" on page 1, line 19. Senator Yellowtail asked if the word "disabled" indicated the dog would be rendered useless. Senator Mazurek explained he may have a disability, but it may only be one percent of his body. He stated if you just disable the animal, you still have a criminal penalty. Senator Towe moved as a substitute motion the bill be amended as follows:

Page 1, line 19.
Following: "knowingly"
Strike: "disables,"
Following: "shoots"
Strike: ","

The motion carried unanimously. Senator Pinsoneault stated he would like to leave this a felony matter, but moved the bill be amended as follows:

Page 2, line 1.
Following: "5"
Strike: "3 years"
Insert: "1 year"

The motion carried with Senators Blaylock and Galt voting in opposition. Senator Pinsoneault moved HB 837 be recommended BE CONCURRED IN AS AMENDED. The motion carried with Senator Blaylock voting in opposition.

ACTION ON HB 911: Amendments proposed by Lorents Grosfield of Big Timber were submitted to the committee (Exhibit 1). Senator Blaylock asked Senator Galt if the amendments sounded reasonable to him. Senator Galt responded no, but his bill was killed in the House. Senator Towe stated he had one problem. He didn't think a metal fence post was adequate warning, as frequently fence posts are orange anyway. Senator Mazurek commented he felt this was one place where the burden should be on the recreationists. Senator Daniels questioned what would happen if the fisherman were to come along with black spray paint in his kit and paint the orange fence post black. He also felt there was ambiguity in the words "the entire exterior side." Senator Shaw stated there are a lot of orange fence posts. He felt it might be easier to lock up the land, and after HB 265, that is what we have done anyway, so he thinks it is okay. Senator Towe moved the committee strike the last two lines of proposed amendment No. 2 and adopt the remainder of the amendments proposed on Exhibit 1. Chairman Mazurek stated he would divide the motion and act first on the deletion of the last two lines of amendment No. 2, which would be the reference to metal fence posts. The motion failed (see roll call vote attached as Exhibit 2). Chairman Mazurek stated the committe would then revert to the remainder of the motion which was to adopt the proposed amendments. Senator Towe felt the farmers will think they have an orange fence post that complies because it is orange and the sportsmen will say it does not comply because it is not flourescent. Senator Mazurek felt the rancher who wanted to post his property would go the extra step to make sure he does it properly. Mr. Petesch pointed out these are at each outer gate. There are not too many metal fence posts used as gate posts. Senator Towe stated he is worried about on the streams. Senator Yellowtail asked if Senator Towe would be willing to amend his motion to indicate amendment No. 1 would say 50 square inches instead of 100. He pointed out flourescent orange is very visible. Senator Towe so amended his motion. Senator Mazurek pointed out amendment No. 5 requires the Fish and Game to use media other than its own to inform the public about this bill. He stated the Fish and Game did not object to this. The motion to accept the amendments, including the reference to 50 square inches, carried unanimously. Senator Towe suggested striking the word "side" on amendment No. 2. Senator Brown questioned why the word "entire" was used. He suggested just using the word "exterior." Senator Brown moved that amendment No. 2 be changed to state "the entire post must be painted." The motion carried unanimously. Senator Towe moved HB 911 be recommended BE CONCURRED IN AS AMENDED. The motion carried with Senator Shaw voting in opposition.

ROLL CALL

SENATE JUDICIARY COMMITTEE

49th LEGISLATIVE SESSION -- 1985 Date 032885

NAME	PRESENT	ABSENT	EXCUSED
Senator Chet Blaylock	X		
Senator Bob Brown	X		
Senator Bruce D. Crippen	X		
Senator Jack Galt	X		
Senator R. J. "Dick" Pinsoneault	X		
Senator James Shaw	X		
Senator Thomas E. Towe	X		
Senator William P. Yellowtail, Jr.	X		
Vice Chairman Senator M. K. "Kermit" Daniels	X		
Chairman Senator Joe Mazurek	X		

PROPOSED AMENDMENTS TO HB 911:

1. Page 2, line 12.
Following: "with"
Strike: "a strip"
Insert: "not less than ~~100~~ 50 square inches"

2. Page 2, line 13.
Following: "paint"
Strike: "at least 3 feet high"
Insert: ", except that when metal fenceposts are used, the entire post ~~exterior side~~ must be painted"

3. Page 2, line 16.
Following: "property"
Strike: "and at all points where any"
Insert: "including both sides of a"

4. Page 2, line 17.
Following: "property"
Insert: "wherever the water body"

5. Page 3, line 14.
Following: "LAND."
Insert: "The department shall use public media, as well as its own publications, in attempting to educate and inform other recreational users of the provisions of this section."

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 1
DATE 032885
BILL NO. HB 911

secretary and chairman. Have at least 50 printed to start.)

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date 032785 House Bill No. 911 Time 10:18 am

NAME	YES	NO
Senator Chet Blaylock		X
Senator Bob Brown		X
Senator Bruce D. Crippen		X
Senator Jack Galt		X
Senator R. J. "Dick" Pinsoneault	X	
Senator James Shaw		X
Senator Thomas E. Towe	X	
Senator William P. Yellowtail, Jr.		X
Vice Chairman Senator M. K. "Kermit" Daniels	X	
Chairman Senator Joe Mazurek		X
	(3)	(7)

Secretary Chairman

Motion: mital fenceposts deleted

(include enough information on motion—put with yellow copy of committee report.)

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 2
DATE 032885
BILL NO. HB911

secretary and chairman. Have at least 50 printed to start.)

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date 032885 House Bill No. ~~SB~~ 700 Time 10:43am

NAME	YES	NO
Senator Chet Blaylock	X	
Senator Bob Brown		X
Senator Bruce D. Crippen		X
Senator Jack Galt		X
Senator R. J. "Dick" Pinsoneault		X
Senator James Shaw		X
Senator Thomas E. Towe	X	
Senator William P. Yellowtail, Jr.	X	
Vice Chairman Senator M. K. "Kermit" Daniels	X	
Chairman Senator Joe Mazurek		X
	(4)	(6)

Secretary Chairman

Motion: Towe's amendments

(include enough information on motion—put with yellow copy of committee report.)

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 5
DATE 032885
BILL NO. HB 911

STANDING COMMITTEE REPORT

March 28 19 85

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration HOUSE BILL No. 911

third reading copy (blue color)

(Senator Mazurek)

CRIMINAL TRESPASS POSTING REQUIREMENTS

Respectfully report as follows: That HOUSE BILL No. 911

be amended as follows:

1. Page 2, line 12.
Following: "with"
Strike: "a strip"
Insert: "not less than 50 square inches"

2. Page 2, line 13.
Following: "paint"
Strike: "at least 3 feet high"
Insert: ", except that when metal fenceposts are used, the entire post must be painted"

3. Page 2, line 16.
Following: "property"
Strike: "and at all points where any"
Insert: "including both sides of a"

4. Page 2, line 17.
Following: "property"
Insert: "wherever the water body"

5. Page 3, line 14.
Following: "LAND."
Insert: "The department shall use public media, as well as its own publications, in attempting to educate and inform other recreational users of the provisions of this section."

~~XXXXXX~~ DO PASS AND AS AMENDED

~~XXXXXXXXXX~~ DO NOT PASS BE CONCURRED IN

Senator Joe Mazurek Chairman.

CLERICAL

Date: 3/30/85

House Bill 911

Time: _____

In accordance with Joint Rule 3-7(b) the following clerical errors may be corrected:

Senate Judiciary Committee 3/28

Amend. # 3. Insert: , including both

Sponsor

Mazurek

Secretary of Senate
or
Chief Clerk

Legislative Council

HOUSE BILL NO. 911

INTRODUCED BY HANNAH, D. BROWN

BY REQUEST OF THE HOUSE JUDICIARY COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING SPECIFIC REQUIREMENTS FOR POSTING OF LAND FOR THE PURPOSES OF THE CRIMINAL TRESPASS LAW; EXPANDING THE AUTHORITY OF WARDENS TO ENFORCE THE CRIMINAL MISCHIEF, CRIMINAL TRESPASS, AND LITTER LAWS ON PRIVATE LANDS BEING USED FOR RECREATIONAL PURPOSES; AMENDING SECTIONS 45-6-201 AND 87-1-504, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 45-6-201, MCA, is amended to read:

"45-6-201. Definition of "enter or remain unlawfully". (1) A person enters or remains unlawfully in or upon any vehicle, occupied structure, or premises when he is not licensed, invited, or otherwise privileged to do so. ~~A person who enters or remains upon land does so with privilege unless notice is personally communicated to him by an authorized person or unless such notice is given by posting in a conspicuous manner.~~ Privilege to enter or remain upon land is extended either by the explicit permission of the landowner or other authorized person or by the failure of the landowner or other authorized person to post notice denying entry onto private land. SUCH PRIVILEGE MAY BE REVOKED AT ANY TIME BY PERSONAL COMMUNICATION OF NOTICE BY THE LANDOWNER OR OTHER AUTHORIZED PERSON TO THE ENTERING PERSON.

(2) ~~In no event shall civil liability be imposed upon the owner or occupier of premises by reason of any privilege created by this section.~~ To be effective under this section, the notice provided for in subsection (1) must satisfy the following requirements:

(a) written notice must be ~~affixed to~~ PLACED ON a post, structure, or natural object ~~that has been marked~~ BY MARKING IT WITH WRITTEN NOTICE OR with ~~a strip~~ NOT LESS THAN 50 SQUARE INCHES of fluorescent orange paint, ~~at least 3 feet high~~ EXCEPT THAT WHEN METAL FENCEPOSTS ARE USED, THE ENTIRE POST MUST BE PAINTED; and

(b) the notice described in subsection (2)(a) must be placed at each outer gate and normal point of access to the property ~~and at all points where any~~, INCLUDING BOTH SIDES OF A water body crossing the property WHEREVER THE WATER BODY intersects an outer boundary line.

~~(3) At least twice a year, once at least 15 days prior to the opening of the general fishing season and once at least 15 days prior to the opening of the general big game hunting season, the landowner or authorized person must determine that written notices are in place on each post,~~

~~structure, or natural object as required by subsection (2)(b).~~

~~(4)~~(3) If property has been posted in ~~accordance~~ SUBSTANTIAL COMPLIANCE with subsection (2) ~~and has been inspected in accordance with subsection (3)~~, it is considered closed to public access ~~from each point at which a post, structure, or natural object painted as required by subsection (2)(a) remains, whether or not the written notice remains affixed to the post, structure, or natural object at such point~~ UNLESS EXPLICIT PERMISSION TO ENTER IS GIVEN BY THE LANDOWNER OR HIS AUTHORIZED AGENT.

(4) THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS SHALL ATTEMPT TO EDUCATE AND INFORM ALL PERSONS HOLDING HUNTING, FISHING, OR TRAPPING LICENSES OR PERMITS BY INCLUDING ON ANY PUBLICATION CONCERNING SUCH LICENSES OR PERMITS, IN CONDENSED FORM, THE PROVISIONS OF THIS SECTION CONCERNING ENTRY ON PRIVATE LAND. THE DEPARTMENT SHALL USE PUBLIC MEDIA, AS WELL AS ITS OWN PUBLICATIONS, IN ATTEMPTING TO EDUCATE AND INFORM OTHER RECREATIONAL USERS OF THE PROVISIONS OF THIS SECTION.

(5) For purposes of this section, "land" means land as defined in 70-15-102.

(6) IN NO EVENT SHALL CIVIL LIABILITY BE IMPOSED UPON THE OWNER OR OCCUPIER OF PREMISES BY REASON OF ANY PRIVILEGE CREATED BY THIS SECTION."

Section 2. Section 87-1-504, MCA, is amended to read:

"87-1-504. Protection of private property -- wardens as ex officio fire wardens. (1) It shall be the duty of wardens (state conservation officers) to enforce the provisions of 45-6-101, 45-6-203, and 75-10-212(2) on private lands ~~where public recreation is permitted~~ being used for recreational purposes and to act as ex officio fire wardens as provided by 77-5-104.

(2) As used in this section, "recreational purposes" means recreational purposes as defined in 70-16-301."

NEW SECTION. Section 3. Effective date. This act is effective on passage and approval.

-End-